



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 30, 1998

Mr. J. Robert Giddings
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2981

OR98-0308

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112057.

The University of Texas at Arlington received two public information requests seeking the following information from the police department files:

1. "All reports, supplements reports, investigative reports, arrest reports, booking sheets, statements, witness names and addresses, photographs and any other documents, notes or writings contained within the file for police case #9515866."
2. "A list of any and all closed case numbers involving assaults which resulted from fraternity and sorority hazing from the year 1987 to present."

You inform this office that you have asked for more specificity from the requestor with regard to the second request which concerns a list which reveals assaults taking place at fraternities and sororities from 1987 to the present. A governmental body may ask a requestor to clarify a request for information if the request is unclear. Open Records Decision No. 304 (1982). It does not appear that the request is unclear, but rather that the large amount of information and access to that information is at issue. Section 552.222(b) provides that if a large amount of information has been requested, the government body may discuss with the requestor how the scope of the request might be narrowed. Open Records Decision No. 87 (1975) at 3. It does not appear that you are objecting to providing the information requested under item No. 2 so we presume that the information will be provided, if it has not been already. Additionally, we note that although in a subsequent letter to this

office you indicate that the police chief does not object to the release of information pertinent to police case #9515866 except as to NCIC/TCIC computer data, you invoke section 552.108 to the extent that the term "deferred probation proforma" is the equivalent of deferred adjudication in the instant matter. We have considered the exception you claim and reviewed the submitted information.

Section 552.108, in part, excepts from disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

...

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

A "deferred probation proforma" as ordered by the judge presiding over the criminal matters falls within the context of a deferred adjudication. Therefore, we conclude that you may not withhold the requested information under section 552.108.

Section 552.101 protects from disclosure information made confidential pursuant to law, including other statutes. Medical records or communications between a physician and patient are confidential by statute under the Medical Practice Act, V.T.C.S. art. 4495b, § 5.08(b), (c), which may be disclosed only as permitted under section 5.08(b). We have marked a sample of this information for your convenience in the documents you submitted to this office.

The file also contains polygraph results. Information pertaining to a polygraph examination is confidential under section 19A(b) of article 4413(29cc), V.T.C.S.¹ We have identified a sample of the information, the results from the polygraph examination, which may not be released.

¹See also Open Records Decision No. 430 (1985).

In addition, a social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(vii). In relevant part, the 1990 amendments to the federal Social Security Act make confidential social security account numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994). However, we note that social security numbers obtained under a law that predates October 1, 1990, are not made confidential by the 1990 amendments to the Social Security Act. Based on the information that you have provided, we are unable to determine whether the social security numbers contained in the submitted documents are confidential under federal law. On the other hand, section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Therefore, prior to releasing *any* social security number, you should ensure that it was not obtained pursuant to a law enacted on or after October 1, 1990.

A review of the material also reveals the presence of driver's license numbers. The Seventy-fifth Legislature added section 552.130 to the Open Records Act which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

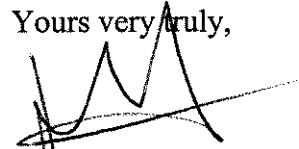
(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

We conclude that you must withhold driver's license numbers pursuant to section 552.130.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/ glg

Ref.: ID# 112057

Enclosures: Submitted documents

cc: Ms. Shirley Bryant
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(w/o enclosures)